



MIKE HATCH  
ATTORNEY GENERAL

# STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

OFFICE OF  
APPELLATE COURTS

AUG 17 2006

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FILED

August 17, 2006

Frederick K. Grittner  
Court of Appeals  
305 Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul MN 55155-6102

Re: **Louis H. Reiter v. Mary Kiffmeyer, individually and as Secretary of State of Minnesota, et al.**  
Court File No. A06-1508

Dear Mr. Grittner:

Enclosed herewith for filing is **RESPONSE OF SECRETARY OF STATE MARY KIFFMEYER TO PETITION AND AFFIDAVIT OF MIKE MCCARTHY**, along with an affidavit of service.

By copy of this letter, counsel and relevant parties are hereby served.

Very truly yours,

*Christie B. Eller*

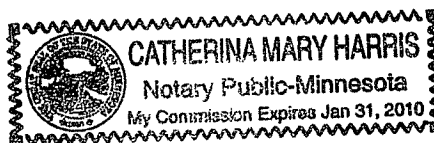
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cc: Alan W. Weinblatt, Attorney for Petitioner  
Tony P. Trimble, Attorney for Intervenor-Respondent  
Mary Kiffmeyer, Secretary of State

Enclosure





**STATE OF MINNESOTA**  
**IN SUPREME COURT**

**A06-1508**

Louis H. Reiter,

Petitioner,

vs.

Mary Kiffmeyer, individually and as Secretary  
of State of Minnesota,

**RESPONSE OF  
SECRETARY OF STATE  
MARY KIFFMEYER  
TO PETITION**

Respondents, ,

and

Congressman Gil Gutknecht,

Intervenor-Respondent.

Pursuant to the Order of the Court dated August 11, 2006, Secretary of State Mary Kiffmeyer (the Secretary) submits this Response to the Petition filed in the above-captioned matter.

First, the Secretary denies that she “wrongfully and unlawfully” accepted an Affidavit of Candidacy for the September 12, 2006 primary election to nominate candidates in the First Congressional District from Gil Gutknecht without his having paid the filing fee required by Minn. Stat. § 204B.11 (2004), as alleged in paragraphs 4 and 6 of the Petition. The Secretary correctly accepted the Affidavit, a copy of which was attached as Exhibit B to the Petition, because it complies with the requirements of Minn. Stat. § 204B.06 (2004) and she correctly determined no filing fee was required because Mr. Gutknecht filed a Petition in Place of Filing Fee. (*See* Affidavit of Mike McCarthy (McCarthy Aff.) attached as Ex. A ¶ 7.)

Second, Mr. Gutknecht filed a Petition in Place of Filing Fee, not as Petitioner repeatedly and incorrectly asserts, a *nominating* petition in lieu of filing fee. Minn. Stat. § 204B.11, subd. 2 (2004), provides in pertinent part, as follows:

**Petition in place of filing fee.** At the time of filing an affidavit of candidacy, a candidate may present a petition in place of the filing fee. The petition may be signed by any individual eligible to vote for the candidate. A nominating petition filed pursuant to section 204B.07 or 204B.13, subdivision 4, is effective as a petition in place of a filing fee if the nominating petition includes a prominent statement informing the signers of the petition that it will be used for that purpose.

The number of signatures on a petition in place of a filing fee shall be as follows:

- (a) for a state office voted on statewide, or for president of the United States, or United States senator, 2,000;
- (b) for a congressional office, 1,000;
- (c) for a county or legislative office, or for the office of district judge, 500; and
- (d) for any other office which requires a filing fee as prescribed by law, municipal charter, or ordinance, the lesser of 500 signatures or five percent of the total number of votes cast in the municipality, ward, or other election district at the preceding general election at which that office was on the ballot.

An official with whom petitions are filed shall make sample forms for petitions in place of filing fees available upon request.

*Id.* Minn. Stat. § 204B.11, subd. 2 (2004) does not specify that signatures on the Petition in Place of Filing Fee signatures be obtained during the filing period, in contrast to the specific requirement in Minn. Stat. § 204B.08 (2004) for Nominating Petition petitions for candidates who do not seek the nomination of a major party, which expressly requires that Nominating Petitions must be signed during the filing period. As a major-party candidate, Mr. Gutknecht is not eligible to file a Nominating Petition, as a Nominating Petition may only be used by candidates who are not seeking the nomination of a major party. Mr. Gutknecht has filed a

Petition in Place of Filing Fee in each election for Congress beginning in 1994. (McCarthy Aff. ¶ 12.) None of the petitions filed by Mr. Gutknecht has been rejected for obtaining signatures outside the filing period. (*Id.*) As required by Minn. Stat. § 204B.11 (2004), the Secretary has made sample forms of a Petition in Place of Filing Fee available upon request. (McCarthy Aff. at ¶ 5, Ex. C.) The Petition filed by Mr. Gutknecht is similar to the sample form provided by the Secretary. The instructions posted on the Office of the Secretary of State's website regarding petitions describe a Petition in Place of Filing Fee as follows:

[A] petition in place of filing fee may be signed at any time. A nominating petition that is also used for a petition in place of filing fee may only be signed during the filing period.

(McCarthy Aff. at ¶ 16.)

Third, while Minn. R. 8205.1010, subp. 2(H) (2005) requires that each signature line on any petition must have a space for the date of signature, and Minn. R. 8205.1030, subp. 2 (2005) similarly requires that every person signing a petition complete and date the signature page, no statute or rule includes a requirement that these signatures be obtained during the filing period - in contrast to the specific requirement imposed on Nominating Petition petitions. Nor does Minn. R. 8205.1050 (2005), which states that one of the duties of the filing officer in verifying petitions is to determine whether the required number of signatories were obtained "during the applicable time period," impose an applicable time period where one is not otherwise created by statute or rule. Petitioner argues that there is no logical purpose to require a date other than to demonstrate that the signatures are obtained during the filing period. The Secretary disagrees and notes there are several other rationales for requiring a date, including providing a basis for ascertaining that the individual who signed the petition was a resident in the district on the date when he or she signed the petition.

Fourth, the fact that the receipt prepared by staff of the Secretary for the Petition in Place of Filing Fee contains a notation referencing “nom petition in lieu of filing fee” does not convert the Petition in Place of Filing Fee filed by Mr. Gutknecht into a Nominating Petition - which Mr. Gutknecht, as a major-party candidate, would not be eligible to file. The Office of the Secretary of State sent a letter to the candidate on August 11, 2006 correcting the clerical error on the receipt. (McCarthy Aff. at ¶ 8, Ex. F.)

Fifth, the Office of the Secretary of State certified Mr. Gutknecht as a candidate for the state primary and delivered the certification of candidates to every county by electronic mail on July 21, 2006. (See McCarthy Aff. at ¶ 12, Ex. E.) Pursuant to the certification of candidates for the primary, absentee ballots are already being distributed to those voters who have requested absentee ballots as required by Minn. Stat. §§ 203B.06 and 204B.35 (2004). (McCarthy Aff. at ¶¶ 13 and 19.) In a ballot challenge petition pursuant to Minn. Stat. § 204B.44 (2004), the burden is on the applicant and relief must be timely sought. *Moe v. Alsop*, 288 Minn. 323, 330-31, 180 N.W.2d 255, 260 (1970); *Marsh v. Holm*, 238 Minn. 25, 28-29, 55 N.W.2d 302, 304 (1952). Since Mr. Gutknecht filed a Petition in Place of Filing Fee on July 5, 2006 and was certified as a candidate on July 21, 2006, Petitioner has had ample time to raise the issue.

Sixth, Petitioner argues that if Minn. Stat. § 204B.11 (2004) is read as not including the requirement that signatures be obtained during the filing period, there is an equal protection concern because minor parties must secure signatures within the filing period and major parties do not, which is special treatment for a major-party candidate. Petitioner’s argument is without merit. As the Court is aware, a petition has been filed in *Idusogie v. Kiffmeyer*, Case No. A06-1516. That petition also raises constitutional concerns regarding alleged disparate treatment of

non-major-party candidates with respect to the signature requirements for petitions. We address, below, those issues raised by both petitions.

This Court recognized in *Moore v. Kiffmeyer*, 688 N.W.2d 854, 860 (Minn. 2004), that the United States Supreme Court has long recognized the right of states to require candidates and political parties to make some preliminary showing of support in order to qualify for a place on the ballot. *Munro v. Socialist Workers Party*, 479 U.S. 189, 199 (1986) (upholding a Washington statute requiring a minor-party candidate receive at least one percent of votes cast in a primary election before a name would be placed on the general election ballot); *Jenness v. Fortson*, 403 U.S. 431, 442 (1971) (upholding Georgia's election statutes that required independent and minor party candidates to submit petitions signed by at least five percent of the voters eligible to vote for the election of the office in question); *American Party of Texas v. White*, 415 U.S. 767, 782 (1974) (upholding Texas requirement that candidates for minor political party to obtain petition signatures of at least one percent of the total vote cast for governor at the last preceding general election). Here, Minnesota law requires candidates seeking the nomination for other than a major party to demonstrate a modicum of support by obtaining 2,000 signatures before the deadline for filing. The filing fee is waived if the petition for nomination clearly states that it is also a petition in place of filing fee.

Minnesota Statutes provide non-major-party candidates with relatively easy access to the ballot. The requirement placed upon a non-major-party candidate of obtaining the signatures during the filing period is minor compared to the far more stringent petition requirements upheld by the U.S. Supreme Court. See *Munro*, 479 U.S. at 199; *Jenness*, 403 U.S. at 442; and *American Party*, 415 U.S. at 782. As the U.S. Supreme Court has held, states have an “undoubted right to require candidates to make a preliminary showing of substantial support in

order to qualify for a place on the ballot.” *Anderson v. Celebrezze*, 460 U.S. 780, 788 n.9 (1983); *Munro*, 479 U.S. at 596.

In Minnesota, the statutory deadline for filing petitions is clearly expressed both in statute and in the information regarding filing provided by the Secretary on her website.

(McCarthy Aff. at ¶ 15.) The Secretary also provides sample petitions. (*Id.* at ¶ 5.)

Petitioner argues that it is necessary to infer a time limit for obtaining signatures for a Petition in Place of Filing Fee, otherwise Petitioner contends there is an equal protection issue if a minor-party candidate seeking to be placed on the ballot must obtain signatures during the 14-day filing period and a major-party candidate seeking waiver of the filing fee does not have to obtain signatures only during the filing period. Denial of a candidate’s access to the ballot implicates important constitutional rights that are central to preservation of our democracy: the right to vote and the right to associate in pursuit of common political ends. *See e.g., Anderson*, 460 U.S. at 787-88. It is equally well-established that to maintain fair, honest and orderly elections, states may impose regulations that in some measure burden the rights to vote and associate. (*Id.* at 788.) This Court quoted the U. S. Supreme Court’s decision in *Timmons v. New Party*, 520 U.S. 351 (1997), to summarize the analytical approach used to address these competing interests:

When deciding whether a state election law violates First and Fourteenth Amendment associational rights, we weigh the “character and magnitude” of the burden the State’s rule imposes on those rights against the interests the State contends justify that burden, and consider the extent to which the State’s concerns make the burden necessary. Regulations imposing severe burdens on plaintiffs’ rights must be narrowly tailored and advance a compelling state interest. Lesser burdens, however, trigger less exacting review, and a State’s “important regulatory interests” will usually be enough to justify “reasonable, nondiscriminatory restrictions.” No bright line separates permissible election related regulation from unconstitutional infringements on First Amendment freedoms.



*Moore*, 688 N.W.2d at 860 (quoting *Timmons*, 520 U.S. at 358-59 (citations omitted)); *see also Clayton v. Kiffmeyer*, 688 N.W.2d 117, 128-29 (Minn. 2004).

The Minnesota Legislature has set different requirements for petitions of major and non-major-party candidates. Petitioner asserts that those restrictions place an undue burden on independent candidates with no compelling interest to the state other than to make it extremely difficult for independent candidates. While Petitioner may not agree with the policy rationale, the Minnesota Legislature has established the petition requirements in recognition of the reality that major-party candidates start their election cycles at the precinct caucuses, which are set by the major political parties and which conform to Minn. Stat. § 202A.14 (2004) as to time and date. Precinct caucuses in 2006 were held on March 7, 2006. Major parties have internal processes starting at these caucuses that may result in the designation of some candidates as “endorsed” by that party.

The policy of the state of Minnesota is that major-party members or prospective candidates who are not in agreement with the result of that process or who may have made a determination in advance of the caucus processes to work outside of that process are provided with a simple, non-onerous method of challenging the results of that process by filing as a candidate in a primary simply by filing the affidavit of candidacy and the filing fee. No signatures are required to show any level of support for the candidacy of a major-party candidate who may or may not be “endorsed,” because achieving major-party status requires that the party show a threshold level of support that would make the signature requirement for its candidates superfluous. As an alternative, a major-party candidate may file the affidavit of candidacy with the petition in place of the filing fee, saving the candidate the payment of the filing fee, which might be a barrier to some candidates. The Minnesota Legislature established the petition in

place of filing fee as an expression of the Minnesota policy of making it possible to challenge the party establishment in each and every race, should citizens decide to do so, and reserves the right of nomination to the people of the state.

Minor-party and independent candidates are not accorded this opportunity. It is likely that the distinction was drawn because their parties or candidacies have not demonstrated the threshold level of support from the general public in statewide elections showing that they merit continuous ballot access. (*See* McCarthy Aff. at ¶ 18.). They must, therefore, show each time a candidate runs that the candidate has a threshold level of support which, while significant, is not onerous.

Should the Court conclude the lack of a statutory requirement that signatures on a Petition in Place of Filing Fee for major-party candidates results in unilateral disparate treatment, any remedy should be prospective. It would be unfair to impose such a signature requirement after the fact.

Finally, the Secretary notes that she is not responsible for printing the ballots for the Office of the First Congressional District. Therefore, Petitioner has failed to state a claim against the Secretary or sought a remedy that the Secretary can grant.

In the event the Court orders removal of the name of Gil Gutknecht on the primary election ballot, the Secretary also respectfully submits that it would be appropriate and helpful to the election officials for the Court to address the proper handling of any absentee ballots cast and the mechanism, if any, for removal of Petitioner from the ballot. (See McCarthy Aff. at ¶ 19.)

Dated: August 17, 2006

Respectfully submitted,

MIKE HATCH  
Attorney General  
State of Minnesota

Christie B. Eller  
CHRISTIE B. ELLER  
Assistant Attorney General  
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ATTORNEYS FOR RESPONDENT  
MARY KIFFMEYER, MINNESOTA  
SECRETARY OF STATE

AG: #1656833-v1

### ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation pursuant to Minn. Stat. § 549.211 if the Court should find that the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass or committed a fraud upon the Court.

Dated: August 17, 2006

Christie B. Eller  
CHRISTIE B. ELLER  
Assistant Attorney General  
Atty. Reg. No. 6658

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ATTORNEYS FOR RESPONDENT  
MARY KIFFMEYER, MINNESOTA  
SECRETARY OF STATE

STATE OF MINNESOTA

IN SUPREME COURT

A06-1508

Louis H. Reiter,

Petitioner,

vs.

**AFFIDAVIT OF  
MIKE McCARTHY**

Mary Kiffmeyer, individually and as Secretary  
of State of Minnesota,

Respondents,

and

Congressman Gil Gutknecht,

Intervenor-Respondent.

STATE OF MINNESOTA    )  
                                  ) ss.  
COUNTY OF RAMSEY    )

Mike McCarthy, being first duly sworn, deposes and says as follows:

1. I began work in the Elections Division of Secretary of State's Office in July of 1999 on mobility assignment from the Minnesota Department of Public Service. On June 24, 2000, I was appointed to the Secretary of State's Office as an Election Administrator. On January 30, 2002 I became a State Program Administrator Senior in the Elections Division. My current position title is Supervisor of the Elections Division. I have served in this position since January 26, 2005.

2. My current duties include supervising and performing elections administration duties of the Secretary of State's Office. In this capacity I am responsible for the internal operations of the Elections Division, including the process of filing for office as well as for compiling the list of candidates certified by the Secretary of State for the state primary and general elections. I train local election officials in the conduct of their elections administration duties and oversee such training provided by Elections Division Staff. In addition, I routinely respond to inquiries by local election officials on matters of elections administration.

3. Administrative duties which I perform include serving as a filing officer during the candidate filing period, and conducting recounts on behalf of the Secretary of State.

4. For the 2006 election I was responsible for the filing process by candidates for offices that filed with the Office of the Secretary of State, including the office of United States Congress, First District.

5. There are three petition types that can be filed with the Office of the Secretary of State for offices voted on in more than one county or with county filing officers for those offices voted on in only one county:

a) Nominating Petition – Used only by minor party or independent candidates for partisan office, and not available to major party candidates. *See* Minn. Stat. §§ 204B.03, 204B.05, and 204B.07. An example form as required by Minn. Stat. § 204B.07 is attached to this Affidavit as “Exhibit A”;

b) Combined Nominating Petition and Petition In Place of Filing Fee – Used only by minor party or independent candidates for partisan office, and not available to major-party candidates. *See* Minn. Stat. §§ 204B.03 and 204B.11, subd. 2. An example form as required by Minn. Stat. § 204B.07 is attached to this Affidavit as “Exhibit B”; and

c) Petition In Place of Filing Fee – Submitted only by major party candidates. *See* Minn. Stat. § 204B.03. If used by a minor party or independent candidate, a nominating petition as described in (a) above would also be required. An example form is attached to this Affidavit as “Exhibit C.”

6. Candidates prepare their own petitions based on the sample forms. A petition that includes all of the information legally required by Minn. R. 8205.1010 is sufficient. The sample petitions are not a required form.

7. For the 2006 election, Gil Gutknecht filed an Affidavit of Candidacy and a Petition In Place of Filing Fee for the office of United States Congress, First District, as a candidate in the Republican Party primary. The petition was headed “Petition In Place of Filing Fee” even though the receipt for the petition, which is attached to this Affidavit as “Exhibit D” referenced a “Nom petition in Lieu of Filing Fee.” The Affidavit and Petition were presented to the Office of the Secretary of State on July 5, 2006, the first day on which filings could be made. The Affidavit and Petition are attached as “Exhibit E.”

8. The Office of the Secretary of State sent Mr. Gutknecht a letter dated August 11, 2006 correcting the clerical error on the receipt in how the petition was titled and properly referring to it as a “Minnesota Petition in Place of Filing Fee.” A copy of that letter is attached to this affidavit as “Exhibit F.”

9. The petition submitted by Mr. Gutknecht was verified by staff of the Election Division on July 5, 2006 and was found to contain more than the one thousand required signatures from within the First District as required by Minn. Stat. § 204B.08, subd. 3(b). Mr. Gutknecht was informed of this in a letter dated July 11, 2006, which is attached as Exhibit G.

10. To verify a petition in place of filing fee, Elections Division staff determine that the person signing is an eligible voter in the jurisdiction, which means:

- a. that the voter is or will be of sufficient age on election day,
- b. that they have listed an address, including the street address, city or town and county, which is, on its face, within the jurisdiction,
- c. that they have listed their name, and
- d. that they have signed the petition

The petition in place of filing fee, like the other two petitions, also contains a space for the date the petition was signed. This information is required by Minn. R. 8205.1010, subp. 2(H) and 8205.1030, subp. 2. However, no specific date or range of dates is required by law for petitions in place of filing fee, as the limitation on when petitions may be signed set forth in Minn. Stat. § 204B.08 applies by its own terms only to nominating petitions or combined nominating petitions and petitions in place of filing fees. Mr. Gutknecht did not file a nominating petition or a combined nominating petition and petition in place of filing fee. He filed a petition in place of filing fee as described in paragraph 5(c) of this Affidavit.

11. Minn. Stat. § 204B.08 provides that nominating petitions must be signed during the filing period, which commenced on July 4, 2006 and expired July 18, 2006. No time limit is stated in law for the signing of a petition in place of filing fee. In fact, as a major party candidate, Mr. Gutknecht was ineligible to file for office using a nominating petition or a combined nominating petition and petition in place of filing fee. The use of nominating petitions and combined nominating petitions and petitions in place of filing fees is limited to minor party and independent candidates pursuant to the requirements of sections 204B.03 and 204B.08.



12. The Office of the Secretary of State has records indicating that Mr. Gutknecht has filed a Petition In Place of Filing Fee in each election for Congress from 2002 to 2006. Copies of the relevant pages of those records are attached as "Exhibit H." None of those petitions has been rejected for any reason, and none has been rejected for the specific reason of 'obtaining signatures outside the filing period.' According to Petitioner's Supplemental Memorandum of Law, at page 3, "This was not the first time he has filed a Nominating Petition in Lieu of Filing Fee (sic). He has done so since the first time that he was a candidate for election to the United States House of Representatives." This includes each election back to 1994.

13. The Office of the Secretary of State has certified Mr. Gutknecht as a candidate in the September 12, 2006 primary based upon the petition submitted to this Office on July 5, 2006. That Certification took place July 21, 2006.

14. The Certification of Candidates for the state primary was delivered to each and every county by electronic mail on July 21, 2006. A copy of that certification is attached to this affidavit as "Exhibit I."

15. In Petitioner's submissions accompanying the Supplemental Memorandum of Law is an Affidavit of Kerry Greeley. In the fourth paragraph of the Affidavit, Mr. Greeley describes his question to the Office of the Secretary of State regarding the time period during which petitions may be signed.

16. The brochure "Filing for Office in Minnesota" which is available in hard copy and on the Web site of the Office of the Secretary of State at [http://www.sos.state.mn.us/docs/filing\\_for\\_office\\_2006.pdf](http://www.sos.state.mn.us/docs/filing_for_office_2006.pdf) informs potential major party candidates that they must attach to their Affidavit of Candidacy either a filing fee or a "Petition in Lieu of Filing Fee." For specific details they are directed to

Minn. Stat. §204B.11. In the brochure's "End Notes" section is a subsection titled "Nominating Petitions" which states that "Nominating petitions can be signed only during the filing period...(Minnesota Statutes 204B.08)." Staff of the Elections Division have consistently been directed by me to verbally respond in a manner consistent with this published information.

17. It is possible that staff of the Office of the Secretary of State understood Mr. Greeley to be asking about a combined nominating petition and petition in place of filing fee, in which case the responses of the Office of the Secretary of State staff set forth in the Affidavit would have been correct.

18. Requirements for petitions of major and minor party candidates differ in terms of when they can be signed for the following reasons:

a) Major party candidates start their election cycles at the precinct caucuses, which are set by the major political parties and which conform to Minn. Stat. § 202A.14 as to time and date. Precinct caucuses in 2006 were held on March 7, 2006. Major parties have internal processes starting at these caucuses that may result in the designation of some candidates as "endorsed" by that party.

b) The policy of the state of Minnesota is that major party members or prospective candidates who are not in agreement with the result of that process or who may have made a determination in advance of the caucus processes to work outside of that process are provided with a simple, non-onerous method of challenging the results of that process by filing as a candidate in a primary simply by filing the affidavit of candidacy and the filing fee. No signatures are required to show any level of support for candidacy of a major party candidate who may or may not be "endorsed," because achieving major party status requires that the party

show a threshold level of support that would make the signature requirement for its candidates superfluous.

c) As an alternative, a major party candidate may file the affidavit of candidacy with the petition in place of the filing fee, which has the effect of making the candidate more widely known as well as complying with the statutory requirements. It also saves the candidate the payment of the filing fee, which might be a barrier to some candidates. The petition in place of filing fee, therefore, is an expression of the Minnesota policy of making it possible to challenge the party establishment in each and every race, should citizens decide to do so, and reserves the right of nomination to the people of the state.

d) Minor party and independent candidates are not accorded this privilege because their parties or candidacies have not demonstrated the threshold level of support from the general public in statewide elections to show that they merit continuous ballot access, and therefore must show each time a candidate runs that the candidate has a threshold level of support which, while significant, is not onerous. Minor party and independent candidates are not subject to the primary election process because they do not necessarily represent anyone other than their association or themselves.

19. The Court asked that respondent inform the court of the date by which a decision must be made in this case in order to prepare a ballot for the September 12 primary. In that regard, the undersigned brings the following to the Court's attention:

a) Ballots have already been printed by the county auditors, who are responsible for that function, and absentee ballots are already being distributed to those voters who have requested absentee ballots either this year or as an ongoing matter. That distribution was required by Minn. Stat. §§ 203B.06 and 204B.35.

b) Because ballots have already been printed prior to the decision of this court, the office of United States Congress, First District appears on the primary ballot. If the court decides to remove the name of Mr. Gutknecht from the ballot, that office should be redacted in whole on the primary ballot and should properly not even appear on the primary ballot because no more than one individual would have filed for the office in any major political party and therefore, pursuant to Minn. Stat. § 204D.03, those properly filed for the office would be automatically declared the nominees of their parties.

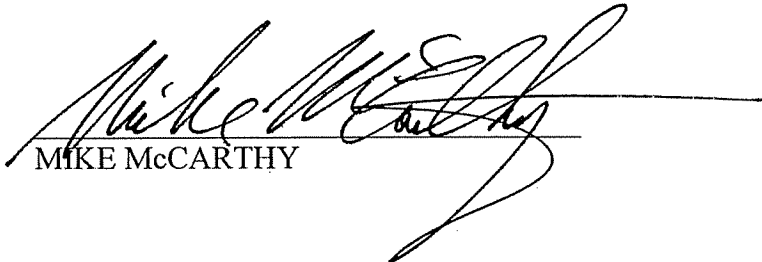
c) However, the ballots delivered for use in polling places could be altered by hand by the election judges as late as election day to remove the office of United States Congress, First District. The Court could also order county auditors to reprint ballots for use in the primary to remove the office from the ballot.

d) Voters for this office within the First Congressional District who will have cast absentee or mail ballots and who will have voted in the Republican primary for United States Congress should not have their votes for that office tabulated if the Court removes Mr. Gutknecht from the ballot, because the remaining candidates for the office of United States Congress, First District become automatically nominated pursuant to Minn. Stat. § 204D.03.

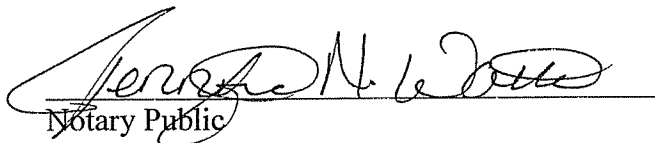
e) If the Court decides to allow Mr. Gutknecht to remain on the ballot, then the Court may decide as late as the last day when that determination could be communicated to the election judges, which would be September 11, 2006, the day before the primary election.

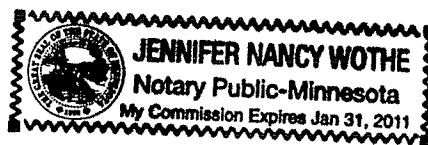
f) In any case, if the Court determines that ballots are to be reprinted, the Office of the Secretary of State has no role in that remedy, because in Minnesota, ballots are printed by county auditors.

FURTHER YOUR AFFIANT SAYETH NOT.

  
MIKE McCARTHY

Subscribed and sworn to before me this  
17<sup>th</sup> day of August, 2006

  
Notary Public



AG: #1657256-v1

# MINNESOTA NOMINATING PETITION FOR PARTISAN OFFICE

We, the undersigned eligible voters, residing in the election district set forth below, hereby nominate by petition \_\_\_\_\_ who resides at \_\_\_\_\_  
(name of candidate)  
 \_\_\_\_\_ and who represents the \_\_\_\_\_  
(residence address, including street and number, if any)  
 \_\_\_\_\_ for the office of \_\_\_\_\_ to be voted on at the general election to be held on November 7, 2006.  
(political party or principle, in no more than three words) (office sought and district, if any)

## SIGNER'S OATH

"I solemnly swear (or affirm) that I know the contents and purpose of this petition, that I do not intend to vote at the primary election for the office for which this nominating petition is made, and that I signed this petition of my own free will."

## ALL INFORMATION ON THIS PETITION IS SUBJECT TO PUBLIC INSPECTION

\*\*\*\*\* ALL INFORMATION MUST BE FILLED IN BY PERSON(S) SIGNING THE PETITION UNLESS DISABILITY PREVENTS THE PERSON(S) FROM DOING SO. \*\*\*\*\*

	DATE	SIGNATURE	YEAR OF BIRTH	PRINT FIRST, MIDDLE, AND LAST NAME	RESIDENCE ADDRESS (number and street or box and route number)	CITY OR TOWNSHIP	COUNTY
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							

Rev. 5/06

M.S. 204B.07, M.R. 8205.1010

EXHIBIT A

# MINNESOTA COMBINED NOMINATING PETITION AND PETITION IN PLACE OF FILING FEE FOR PARTISAN OFFICE

We, the undersigned eligible voters, residing in the election district for the office set forth below, hereby nominate by petition \_\_\_\_\_ who resides at \_\_\_\_\_  
(name of candidate)  
 \_\_\_\_\_ and who represents the \_\_\_\_\_  
(residence address, including street and number, if any) (political party or principle, in no more than three words)

for the office of \_\_\_\_\_ to be voted on at the general election to be held on November 7, 2006. We understand that it is also intended that this  
(office sought and district, if any)  
 petition will be presented by the above named candidate in place of the filing fee, as provided by *Minnesota Statutes*, section 204B.11, subdivision 2.

## SIGNER'S OATH

"I solemnly swear (or affirm) that I know the contents and purpose of this petition, that I do not intend to vote at the primary election for the office for which this nominating petition is made, and that I signed this petition of my own free will."

## ALL INFORMATION ON THIS PETITION IS SUBJECT TO PUBLIC INSPECTION

\*\*\*\*\*ALL INFORMATION MUST BE FILLED IN BY PERSON(S) SIGNING THE PETITION UNLESS DISABILITY PREVENTS THE PERSON(S) FROM DOING SO.\*\*\*\*\*

	DATE	SIGNATURE	YEAR OF BIRTH	PRINT FIRST, MIDDLE, AND LAST NAME	RESIDENCE ADDRESS (number and street or box and route number)	CITY OR TOWNSHIP	COUNTY
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							

Rev. 5/06

M.S. 204B.11 subd 2., M.S. 204B.07, M.R. 8205.1010

EXHIBIT B

# MINNESOTA PETITION IN PLACE OF FILING FEE

We, the undersigned eligible voters, residing in the election district for the office set forth below, understand that it is intended that this petition be presented in place of the filing fee otherwise required by law by \_\_\_\_\_ at the time of filing an affidavit of candidacy for the office of \_\_\_\_\_ to be voted on at the general election to be held on November 07, 2006, as provided by *Minnesota Statutes*, section 204B.11, subdivision 2.

(name of candidate)

(office sought and district number, if any)

## SIGNER'S OATH

"I swear (or affirm) that I know the contents and purpose of this petition and that I signed the petition only once and of my own free will."

## ALL INFORMATION ON THIS PETITION IS SUBJECT TO PUBLIC INSPECTION

\*\*\*\*\*ALL INFORMATION MUST BE FILLED IN BY PERSON(S) SIGNING THE PETITION UNLESS DISABILITY PREVENTS THE PERSON(S) FROM DOING SO.\*\*\*\*\*

	DATE	SIGNATURE	YEAR OF BIRTH	PRINT FIRST, MIDDLE, AND LAST NAME	RESIDENCE ADDRESS (number and street or box and route number)	CITY OR TOWNSHIP	COUNTY
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							

Rev. 5/06

M.S. 204B.11 subd 2., M.S. 204B.07, M.R. 8205.1010

EXHIBIT C





Office of the Minnesota  
Secretary of State

Receipt for Petition  
2006 State General Election

*Instructions: All items must be completed before receipt is issued.*

Received:

One Warm Petition in new filing fee petition containing 197 pages.  
Type of Petition Total Number of Pages

Date filed: 7-5-06

Submitted by: Nels T. Pierson III  
Name  
P.O. Box 6428  
Address  
Rochester, MN 55903  
(507) 252-1450  
Telephone

Received by: Mary Kufmeyer 7-5-06  
Signature Date



# Office of the Minnesota Secretary of State

Filing # \_\_\_\_\_  
Cash/Check # Petition  
Amount \$ \_\_\_\_\_

## Affidavit of Candidacy

All information on this form is available to the public. Information provided will appear on the Secretary of State's website at [www.sos.state.mn.us](http://www.sos.state.mn.us).

**Note:** If filing for partisan office and not a major party candidate, you must file both an affidavit of candidacy and a nominating petition: "Candidates for any partisan office who do not seek the nomination of a major political party shall be nominated by nominating petition as provided in sections 204B.07 and 204B.08, and . . . shall file an affidavit of candidacy as provided in section 204B.06." (Minn. Stat. section 204B.03).

Please print or type.

Name (as it will appear on the ballot): Gil Gutknecht  
Office Sought: U.S. House of Reps. District #: 1  
For Partisan Office Provide Political Party or Principle: Republican  
For Judicial Office Provide Name of Incumbent: \_\_\_\_\_

### Legal Residence Address

Street Address: 3936 NW Birmingham Lane  
City: Rochester State: MN Zip: 55901

### Campaign Contact Information

Street Address: P.O. Box 6428  
City: Rochester State: MN Zip: \_\_\_\_\_  
Website: www.gilg.org Email: gil@gilg.org  
Phone Number: ( 800 ) 750 1994

For all offices, I swear (or affirm) that this is my true name or the name by which I am generally known in the community.

If filing for a state or local office, I also swear (or affirm) that:

- I am eligible to vote in Minnesota;
- I have not filed for the same or any other office at the upcoming primary or general election;
- I am, or will be on assuming office, 21 years of age or more;
- I will have maintained residence in this district for at least 30 days before the general election; and
- If a major political party candidate, I either participated in the party's most recent precinct caucuses or intend to vote for a majority of that party's candidates at the next general election.

If filing for one of the following offices, I also swear (or affirm) that I meet the requirements listed below:

- **United States Senator** - I will be an inhabitant of this state when elected and I will be at least 30 years old and a citizen of the United States for not less than nine years on the next January 3rd, or if filled at special election, within 21 days after the election.
- **United States Representative** - I will be an inhabitant of this state when elected and I will be at least 25 years old and a citizen of the United States for not less than seven years on the next January 3rd, or if filled at special election, within 21 days after the election.
- **Governor or Lieutenant Governor** - I will be at least 25 years old on the first Monday of the next January and a resident of Minnesota for not less than one year on election day. I am filing jointly with \_\_\_\_\_.
- **Supreme Court Justice, Court of Appeals Judge, District Court Judge, or County Attorney** - I am learned in the law and licensed to practice law in Minnesota. My Minnesota attorney license number is \_\_\_\_\_.
- **State Senator or State Representative** - I will be a resident of Minnesota not less than one year and of this district for six months on the day of the general or special election.
- **County Sheriff** - I am a licensed peace officer in Minnesota. My Board of Peace Officer Standards and Training license number is \_\_\_\_\_.
- **School Board Member** - I have not been convicted of an offense for which registration is required under Minnesota Statutes, section 243.166.
- **County, Municipal, School District, or Special District Office** - I meet any other qualifications for that office prescribed by law.

Candidate Signature

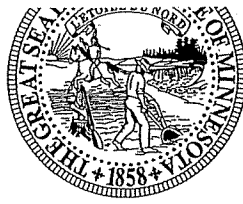
07/05/06  
Date

EXHIBIT E

(Notary stamp)

Subscribed and sworn before me this

5 day of July 2006  
Mary Kiffmeyer  
Notary public or other officer empowered to  
take and certify acknowledgments.



## MINNESOTA SECRETARY OF STATE OFFICE

Mary Kiffmeyer, Secretary of State

August 11, 2006

The Honorable Gil Gutknecht  
P.O. Box 6428  
Rochester MN 55903

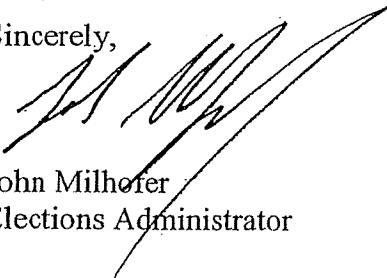
Dear Congressman Gutknecht:

It has come to our attention that the Office of the Secretary of State provided to you a receipt dated July 5, 2006, for "Nom Petition in lieu of filing fee."

Under Minn. Stat. 204B.03 only minor party or independent candidates for partisan office submit nominating petitions.

The petition you submitted was a "Minnesota Petition In Place of Filing Fee," pursuant to Minn. Stat. 204B.11 and the receipt should have so indicated.

Sincerely,



John Milhofer  
Elections Administrator

EXHIBIT F

180 State Office Building • 100 Rev. Dr. Martin Luther King Jr. Blvd. • St. Paul, MN 55155-1299  
651-296-2079 • 1-877-600-8683 • TTY: MNRelayService 1-800-627-3529 • Fax: 651-215-0682

Web site [www.sos.state.mn.us](http://www.sos.state.mn.us) • E-mail [secretary.state@state.mn.us](mailto:secretary.state@state.mn.us)



**MINNESOTA SECRETARY OF STATE OFFICE**  
Mary Kiffmeyer, Secretary of State

July 11, 2006

Gil Gutknecht  
P.O. Box 6428  
Rochester, MN 55903-6428

Dear Mr. Gutknecht:

The Office of Secretary of State is in receipt of a Petition in Place of Filing Fee for Gil Gutknecht. Pursuant to Minnesota Rule, part 8205.1050, this Office shall notify the person whose name is on the petition receipt that the petition is sufficient.

This letter is to confirm that the petition submitted for the office of United States House of Representatives, First District, has satisfied the necessary requirements. The petition, together with the affidavit of candidacy, completes the filing process for the November 7, 2006, general election.

If you have any questions about this matter, do not hesitate to contact my office.

Sincerely,

A handwritten signature in cursive script that reads "Mary Kiffmeyer".

Mary Kiffmeyer  
Secretary of State

**EXHIBIT G**

2002

[illegible]

# 2004 Intake Log for Candidate Filing by Petition

Withdrawn See Affidavit 00074

Filing #	Date	Candidate Name	Office	Party
1	7/6/04	Timothy L. Blakely (Filing #10)	1st Jud. Dist. Seat 8	N/A
2	7/12	Gil Gutknecht	U.S. Cong. Dist. 1	Republican
3	7/13	David E. Sturrock	U.S. Cong. Dist. 7	Republican
4	7/16	Richard "Dick" Stolz	34A	People not party
5	7/19	Charles Aldrich	40A	Libertarian
6	7/20	Michael Peroutka / Dr. Chuck Baldwin	President/Vice President	Constitution
7	7/20	Arlon Lindner	32A	Independent
8	7/21	Norman R. Dittmar	U.S. Cong. Dist. 1	Not stated
<del>REDACTED</del>				
9	8/3/04	Thomas J. Havens & Jennifer A. Ryan	Pres. + Vice Pres.	Christian Freedom
10	9/3/04	Roger Calero & Arrin Hawkins	Pres. + Vice Pres.	Socialist Workers Party
11	9/8/04	Michael Badnarik & Richard Campagne	Pres & Vice Pres	Libertarian Party
12	9/13/04	Bill Van Auken & Jim Lawrence	Pres & Vice Pres	Socialist Equality Party
13	9/13	Ralph Nader & Peter Miguel Camejo	" "	Better Living

Review  
last  
7/21

## 2006 CANDIDATE FILING LOG

or V#

Filing Number	Filing Date	Candidate Name	Office District	Payment method	Receipt Number	Petition Number
000001	7-5	Joyce Peppin	32A	check	5557	.
000002	7-5	Jim Petersen	24B	check	#3034	
000003	7-5	Michael J. Mayer	First Judicial	check	18087	—
000004	7-5	Mary A. Yunker	10th Jud.	check	#6774	
<del>000006</del>	<del>7-5</del>	<del>Christopher J. Dietzen</del>	<del>Appeals</del>	<del>check</del>	<del>19929</del>	
<del>000006</del>	<del>7-5</del>	<del>Jill Haskamp Holbrook</del>				
000005	7-5	Derek Day	SD 26	check	11678	—
000007	7-5	Jill Haskamp Holbrook	Appeals	check	682	
000008	7-5	Diane M. Hanson	Seated	check	7832	—
000009	7-5	Chuck Niger	SD 55	check		
000010	7-5	Scott Schulte	SD 47	Cash	2207	.
000011	7-5	Gil Gutnecht	1 CD	Petition	—	000001
000012	7-5	Timothy K. Connell	5th SD	check	14547	—
000013	<del>7-5</del>					
000014	7-5	John Kline	2 CD	check	5446	
000015	7-5	James E. Dehn	10th judicial	check	17562	
000016	7-5	Douglas G. Swenson	10th SD	check	3032	
000017	7-5	Kathleen A. Mottl	10th SD	check	6601	
000018	7-5	P. Hunter Anderson	10th Judicial	check	3627	
000019	7-5	Brenda B. Johnson	SD 31	check	2037	
000020	7-5	Jim Ramstad	US Rep #3	check	1040	
000021	7-5	Leo Foley	SD 47	check	4412	
000022	7-5	Gordon D. Shumaker	Appeals	check	15846	

State of Minnesota

# SECRETARY OF STATE

## CERTIFICATION OF CANDIDATES 2006 STATE PRIMARY

To the County Auditors of Minnesota:

I, Mary Kiffmeyer, Secretary of State of Minnesota, do hereby certify the names of all candidates whose affidavits have been properly filed with this office to be placed on the State Partisan Primary Ballot in the Independence, Republican, and Democratic-Farmer-Labor party columns for the State Primary to be held on September 12, 2006.

I also certify the names of candidates whose affidavits have been properly filed with this Office to be placed on the State Non-Partisan Ballot for judicial seats for the State Primary to be held on September 12, 2006.

Witness my hand and the Great Seal of the State of Minnesota on this 20<sup>th</sup> day of July 2006, being the 231<sup>st</sup> year of Independence, and the 149<sup>th</sup> year of Statehood.



*Mary Kiffmeyer*  
Secretary of State

EXHIBIT I





# Office of the Minnesota Secretary of State

## Certification of Candidates 2006 State Primary

Candidate	Party	Office
MILES W. COLLINS	Independence	US SENATOR
ROBERT FITZGERALD	Independence	US SENATOR
STEPHEN WILLIAMS	Independence	US SENATOR
JOHN ULDRICH	Republican	US SENATOR
MARK KENNEDY	Republican	US SENATOR
HAROLD SHUDLICK	Republican	US SENATOR
AMY KLOBUCHAR	Democratic-Farmer-Labor	US SENATOR
DARRYL STANTON	Democratic-Farmer-Labor	US SENATOR
GREGORY MIKKELSON	Republican	US REPRESENTATIVE DISTRICT 01
GIL GUTKNECHT	Republican	US REPRESENTATIVE DISTRICT 01
TIM WALZ	Democratic-Farmer-Labor	US REPRESENTATIVE DISTRICT 01
JIM RAMSTAD	Republican	US REPRESENTATIVE DISTRICT 03
KEVIN RAY SMITH	Democratic-Farmer-Labor	US REPRESENTATIVE DISTRICT 03
GAVIN SULLIVAN	Democratic-Farmer-Labor	US REPRESENTATIVE DISTRICT 03
WENDY WILDE	Democratic-Farmer-Labor	US REPRESENTATIVE DISTRICT 03
JACK SHEPARD	Republican	US REPRESENTATIVE DISTRICT 04
OBI SIUM	Republican	US REPRESENTATIVE DISTRICT 04
BETTY MCCOLLUM	Democratic-Farmer-Labor	US REPRESENTATIVE DISTRICT 04
TAMMY LEE	Independence	US REPRESENTATIVE DISTRICT 05
ALAN FINE	Republican	US REPRESENTATIVE DISTRICT 05
GREGG A. IVERSON	Democratic-Farmer-Labor	US REPRESENTATIVE DISTRICT 05
ANDREW VINCENT FAVORITE	Democratic-Farmer-Labor	US REPRESENTATIVE DISTRICT 05
EMBER REICHGOFF JUNGE	Democratic-Farmer-Labor	US REPRESENTATIVE DISTRICT 05
KEITH ELLISON	Democratic-Farmer-Labor	US REPRESENTATIVE DISTRICT 05
MIKE ERLANDSON	Democratic-Farmer-Labor	US REPRESENTATIVE DISTRICT 05
PAUL OSTROW	Democratic-Farmer-Labor	US REPRESENTATIVE DISTRICT 05
PATRICK J. WILES	Democratic-Farmer-Labor	US REPRESENTATIVE DISTRICT 05
MICHAEL J. BARRETT	Republican	US REPRESENTATIVE DISTRICT 07
ERIK THOMPSON	Democratic-Farmer-Labor	US REPRESENTATIVE DISTRICT 07
COLLIN C. PETERSON	Democratic-Farmer-Labor	US REPRESENTATIVE DISTRICT 07
DAN STEVENS	Republican	STATE SENATOR DISTRICT 08
TONY LOUREY	Democratic-Farmer-Labor	STATE SENATOR DISTRICT 08
TOM SKARE	Democratic-Farmer-Labor	STATE SENATOR DISTRICT 08
PAUL KOERING	Republican	STATE SENATOR DISTRICT 12
KEVIN GOEDKER	Republican	STATE SENATOR DISTRICT 12
TERRY SLUSS	Democratic-Farmer-Labor	STATE SENATOR DISTRICT 12
JOE GIMSE	Republican	STATE SENATOR DISTRICT 13
DEAN ELTON JOHNSON	Democratic-Farmer-Labor	STATE SENATOR DISTRICT 13

MICHAEL CRUZE  
 MATHEW (MATT) KRUSE  
 MARK PIEPHO  
 KATHY SHERAN  
 STEVE WILSON  
 STEVE DRAZKOWSKI  
 STEVE MURPHY  
 WARREN LIMMER  
 GREGORY J. BOWNIK  
 JOHN OLSON  
 PATRICIA PARISEAU  
 CAROLYN SAMPSON  
 GREGORY STAFFA  
 CHRIS PFEIFER  
 LES LEMM  
 BOB ANDERSON  
 TOM ANZELC  
 GARY IOCCO  
 DAN RYAN  
 SANDY WOLLSCHLAGER  
 PETER HUTCHINSON AND MAUREEN REED  
 PAM ELLISON AND KARI JOHNSON  
 SUE JEFFERS AND RUTH HENDRYCKS  
 TIM PAWLENTY AND CAROL MOLNAU  
 BECKY LOUREY AND TIM BAYLOR  
 OLE' SAVIOR AND DAN FISCHER  
 MIKE HATCH AND JUDI DUTCHER  
 JOEL SPOONHEIM  
 MARY KIFFMEYER  
 MARK RITCHIE  
 "DICK" FRANSON  
 RICHARD "DICK" BULLOCK  
 JOHN JAMES  
 DALE NATHAN  
 JUAL CARLOS CARLSON  
 JEFF JOHNSON  
 SHARON ANDERSON  
 LORI SWANSON  
 BILL LUTHER  
 STEVE KELLEY  
 SHAUN R. FLOERKE  
 TIM LITTLE  
 PAUL E. LACY  
 TERRANCE C. HOLTER  
 JOHN G. MELBYE  
 TIM TINGELSTAD

Democratic-Farmer-Labor  
 Republican  
 Republican  
 Democratic-Farmer-Labor  
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 STATE SENATOR DISTRICT 32  
 STATE SENATOR DISTRICT 32  
 STATE SENATOR DISTRICT 32  
 STATE SENATOR DISTRICT 36  
 STATE SENATOR DISTRICT 36  
 STATE SENATOR DISTRICT 36  
 STATE REPRESENTATIVE DISTRICT 03A  
 STATE REPRESENTATIVE DISTRICT 03A  
 STATE REPRESENTATIVE DISTRICT 03A  
 STATE REPRESENTATIVE DISTRICT 03A  
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 SECRETARY OF STATE  
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 SECRETARY OF STATE  
 ATTORNEY GENERAL  
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 ATTORNEY GENERAL  
 ATTORNEY GENERAL  
 ATTORNEY GENERAL  
 JUDGE -6TH DISTRICT COURT 8 (FLOERKE)  
 JUDGE -6TH DISTRICT COURT 8 (FLOERKE)  
 JUDGE -6TH DISTRICT COURT 8 (FLOERKE)  
 JUDGE -9TH DISTRICT COURT 7 (HOLTER)  
 JUDGE -9TH DISTRICT COURT 7 (HOLTER)  
 JUDGE -9TH DISTRICT COURT 7 (HOLTER)

# CAMPAIGN EXPENDITURE REPORTING:

Information about required financial reporting is available from the sources listed below.

**Federal Offices:** Reports must be filed with the Federal Election Commission. Candidates for federal office whose reports are published on the FEC web site ([www.fec.gov](http://www.fec.gov)) no longer are required to file a paper copy with the Minnesota Secretary of State.

Federal Election Commission  
999 E Street NW  
Washington, DC 20463  
1-800-424-9530

**State Offices (including all judicial offices):** Reports must be filed with the Campaign Finance and Public Disclosure Board (*Minnesota Statutes 10A*).

Campaign Finance and Public Disclosure Board  
1st Floor, Centennial Office Building  
St. Paul, MN 55155  
(651) 296-5148

**County Offices:** Reports must be filed with the county auditor (*Minnesota Statutes 211A.02*).

**Municipal Offices:** Reports must be filed with the municipal clerk.

**School District Offices:** Reports must be filed with the school district clerk.

## Minnesota's Major Political Parties:

Democratic-Farmer-Labor  
(651) 293-1200  
255 E. Plato Blvd.  
St. Paul, MN 55107  
[www.dfl.org](http://www.dfl.org)

Independence  
(651) 487-9700  
1821 University Ave.  
#120  
St. Paul, MN 55104  
[www.mnnp.org](http://www.mnnp.org)

Republican  
(651) 222-0022  
525 Park St., #250  
St. Paul, MN 55103  
[www.mngop.com](http://www.mngop.com)

## END NOTES

**MAJOR POLITICAL PARTY:** To qualify as a major political party, a party:

- must have presented at least one candidate for election to the office of: (1) governor and lieutenant governor, secretary of state, state auditor, or attorney general at the last preceding state general election for those offices; or (2) presidential elector or U.S. senator at the last preceding state general election for presidential electors; and whose candidate received votes in each county in that election and received votes from not less than 5% of the total number of individuals who voted in that election; or has presented at least 45 candidates for election to the office of state representative, 23 candidates for election to the office of state senator, four candidates for election to the office of representative in Congress, and one candidate for election to each of the following offices: governor and lieutenant governor, attorney general, secretary of state, and state auditor, at the last preceding state general election for those offices; or whose members present to the secretary of state at any time before the close of filing for the state partisan primary ballot a petition for a place on the state partisan primary ballot, which petition contains signatures of a number of the party members equal to at least 5% of the total number of individuals who voted in the preceding state general election. (*Minnesota Statute 200.02 amended effective 7/1/05*)

Three parties currently qualify as a "major political party" in Minnesota: the Democratic-Farmer-Labor, Independence, and Republican.

**PRIMARY:** The state primary will be held September 12, 2006 (*Minnesota Statutes 204D.03*). The names of all candidates for partisan offices seeking the nomination of a major political party will appear on the primary ballot. The names of candidates for partisan office who do not seek the nomination of a major political party do not appear on the primary ballot. The names of candidates for nonpartisan offices appear on the primary ballot only if more than twice the number of individuals to be elected filed for the office (*Minnesota Statutes 204D.07*).

**MINOR POLITICAL PARTY:** To qualify as a statewide minor political party, a party:

- must have presented at least one candidate for election to the office of: (1) governor and lieutenant governor, secretary of state, state auditor, or attorney general, at the last preceding state general election for those offices; or (2) presidential elector or U.S. senator at the preceding state general election for presidential electors; and who received votes in each county that in the aggregate equal at least 1% of the total number of individuals who voted in the election, or its members must have presented to the secretary of state at any time before the close of filing for the state partisan primary ballot a nominating petition in a form prescribed by the secretary of state containing the signatures of party members in a number equal to at least 1% of the total number of individuals who voted in the preceding state general election. *Minnesota Statutes 200.02 subd. 23 (c)* A political party whose candidate receives a sufficient number of votes at a state general election described in paragraph (b) becomes a minor political party as of January 1 following that election and retains its minor party status for at least two state general elections even if the party fails to present a candidate who receives the number and percentage of votes required under paragraph (b) at subsequent state general elections. (c) A minor party that qualifies to be a major party loses its status as a minor party at the time it becomes a major party. Votes received by the candidates of a major party must be counted in determining whether the party received sufficient votes to qualify as a minor party, notwithstanding that the party does not receive sufficient votes to retain its major party status.

To qualify as a minor political party in a legislative district, a party:

- must have presented at least one candidate for a legislative office in that district who received votes from at least ten percent of the total number of individuals who voted for that office, or its members must have presented to the secretary of state a nominating petition in a form prescribed by the secretary of state containing the signatures of party members in a number equal to at least ten percent of the total number of individuals who voted in the preceding state general election for that legislative office. (*Minnesota Statute 200.02 amended effective 7/1/05*)

Petition forms to qualify as a minor political party are available from the Secretary of State. The Green party is currently the only qualified minor political party.

**NOMINATING PETITIONS:** Candidates for partisan office who do not seek the nomination of a major political party must be nominated by petition. The petition may nominate only one candidate.

Sample forms for nominating petitions are available from the Secretary of State.

Each page of the petition must include:

- the office sought;
- the candidate's name;
- residence address of candidate;
- the candidates political party in three words or less and not using the word "nonpartisan" or a major political party name (A major political party has exclusive use of its name); and
- an oath in the form prescribed by statute and space for the signature and signer's residence address. (*Minnesota Statutes 204B.07*)

Nominating petitions can be signed only during the filing period and can be signed only by individuals eligible to vote for the office (*Minnesota Statutes 204B.08*).

**MUNICIPAL CANDIDATE FILING:** In municipalities nominating candidates at a municipal primary, an Affidavit of Candidacy for a city office or town office voted on November 7, 2006 must be filed between July 4, 2006, and July 18, 2006. In all other municipalities, an Affidavit of Candidacy must be filed not more than 70 days and not less than 56 days before the municipal general election. (*Minnesota Statutes 205.13, subd. 1a*)

**SCHOOL DISTRICT FILING PERIOD:** Affidavits of Candidacy must be filed with the school district clerk no earlier than the 70th day and no later than the 56th day before the first Tuesday after the second Monday in September in the year when the school district general election is held. (*Minnesota Statutes 205A.06, subd. 1a, amended effective 1/1/2004*)

**NUMBER OF SIGNATURES REQUIRED FOR PETITIONS IN 2006:**  
Office voted on statewide: 2,000  
U.S. Representative: 1,000  
Legislative office: 500  
(*Minnesota Statutes 204B.08*)

Minnesota Secretary of State  
Mary Kiffmeyer  
180 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155-1299  
(651) 215-1440  
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# FILING FOR OFFICE IN MINNESOTA 2006

U.S. Senator	State Senators
U.S. Representatives	State Representatives
Governor	Judicial Offices
Lieutenant Governor	County Offices
Secretary of State	City Offices
State Auditor	Township Offices
Attorney General	School District Offices

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EXHIBIT J

**FILING FOR OFFICE IN MINNESOTA 2006:**  
This document summarizes selected filing provisions under Minnesota election law for candidates for state and federal offices. Prepared by the Minnesota Secretary of State, it is intended for informational purposes only. For complete information, please refer to the statutes noted. Special laws and home rule charters may affect filing requirements for local elections. In all matters, the laws and rules are the final authority. Consult your attorney regarding any legal questions you have as a candidate.

#### OFFICERS TO BE ELECTED:

State and federal officers to be elected at the November 7, 2006 general election include:

- 1 - U.S. Senator
- 8 - U.S. Representatives
- 1 - Governor & Lieutenant Governor
- 1 - Secretary of State
- 1 - State Auditor
- 1 - Attorney General
- 67 - State Senators
- 134 - State Representatives
- State Judicial Officers

Information about county, municipal, and school district officers to be elected is available from county auditors, municipal clerks, or school district clerks, respectively.

#### QUALIFICATIONS FOR OFFICE:

All candidates must state on the Affidavit of Candidacy that they are eligible voters, will be at least 21 years of age when assuming office, will have been residents of their districts for at least 30 days before the general election, and have no other affidavit on file for any office at the primary or ensuing general election (exception: soil & water conservation district officer) (*Minnesota Statutes 204B.06*). In addition, candidates for particular offices must meet the following requirements:

**U.S. Senator:** At least 30 years of age and a U.S. citizen for at least nine years on January 3, 2007, or if filled at a special election, within 21 days after the election.

**U.S. Representative:** At least 25 years of age, a U.S. citizen for at least seven years on January 3, 2007, or if filled at special election, within 21 days after the election.

**Governor or Lt. Governor:** At least 25 years of age as of January 2, 2007, and a resident of Minnesota for at least one year as of November 7, 2006.

**State Legislator:** A resident of the state for at least one year and of the legislative district for at least six months as of November 7, 2006.

**Judicial officers:** Licensed to practice law in Minnesota.

#### METHODS OF NOMINATION FOR OFFICES:

Candidates of a major political party<sup>1</sup> for partisan office (except for president and vice president) and certain candidates for nonpartisan office are nominated in a primary<sup>2</sup> (*Minnesota Statutes 204B.03*). Candidates for minor parties<sup>3</sup> or independent candidates are nominated by petition.<sup>4</sup> All candidates must file an Affidavit of Candidacy.

#### FILING PERIOD:

The filing period for federal, state, and county offices to be elected at the November 7, 2006, general election will open July 4, 2006, and close on July 18, 2006, at 5:00 P.M. Because July 4<sup>th</sup> is a state holiday, neither affidavits of candidacy nor nominating petitions will be accepted for filing and will not be processed on July 4, 2006. However nominating petitions may be circulated and signed beginning on July 4<sup>th</sup>. Filing dates for municipal<sup>1</sup> and school district<sup>4</sup> offices vary, and the municipal or school district clerk should be consulted for specific filing information. (*Minnesota Statutes, 205.13, subd. 1a; 205A.06, subd. 1a; 204B.09*)

#### PLACE OF FILING:

Candidates for federal, state, and judicial offices to be voted on in more than one county (multi-county districts) file with the secretary of state. Candidates for federal, state, and judicial offices voted on in only one county (single-county districts) and candidates for county offices file with the county auditor (*Minnesota Statutes 204B.09*). Candidates for municipal offices file with the municipal clerk (*Minnesota Statutes 205.13*). Candidates for school district offices file with the school district clerk (*Minnesota Statutes 205A.06*).

#### AFFIDAVIT OF CANDIDACY:

All candidates must file affidavits stating, in part,

- the name of the office sought,
- that they are eligible voters,
- that they have no other affidavits on file for any other offices for the election (see *Minnesota Statutes 204B.06* for exceptions),
- that they meet the office qualifications; and
- that the names listed on their affidavits are their true names or names by which they are commonly known in the community.

The affidavit of candidates who seek the nomination of a major political party must state that they participated in the party's most recent precinct caucus or that they intend to vote for a majority of the party's candidates at the next state general election (*Minnesota Statutes 204B.06*).

Affidavits of Candidacy for federal, state, and county offices may be executed starting 60 days before and during the filing period. The properly completed affidavit, filing fee, and petition (if required) must be received by the filing officer during the filing period by no later than 5:00 P.M. on the last day for filing (*Minnesota Statutes 204B.09*). Affidavits of candidacy for municipal and school district candidates must be filed during the filing period. Affidavits must be signed in the presence of a notarial officer (or a designated employee of the secretary of state, if the filing occurs in that office.) Candidates should be prepared to supply satisfactory evidence of identification. Judicial candidates must submit proof that the candidate is licensed to practice law in Minnesota at the time of filing (*Minnesota Statutes 204B.06*).

Candidates for federal, state, or county offices who will be out of the state during the filing period may file Affidavits of Candidacy and any required filing fees or petitions during the seven days immediately preceding their absence from the state (*Minnesota Statutes 204B.09*). The proper filing officer should be contacted for more specific information. Affidavit of Candidacy forms may be obtained from the filing officer.

#### SIMILAR NAME OF CANDIDATES:

If more than one candidate files for the same office using identical or similar last names, then up to three additional words describing the candidate's occupation, office, and/or residence may be provided to the filing officer by the last day to withdraw from candidacy to be printed on the ballot (*Minnesota Statutes 204B.38*).

#### WRITE-IN CANDIDATES:

Candidates for state or federal office who want their write-in votes counted must file a written request with the filing office no later than the day before the general election. (*Minnesota Statutes 204B.09*).

#### FILING FEE:

A filing fee must be paid at the time of filing the Affidavit of Candidacy. A petition may be filed in lieu of the filing fee.<sup>5</sup> Sample forms and information about the number of signatures required on a petition in lieu of filing fee are available from the filing officer (*Minnesota Statutes 204B.11*).

Candidates who provide the filing fee by a check or other instrument for which sufficient funds are not available will have their names removed from the ballot and are liable for all costs incurred by election officials in removing their names from the ballot (*Minnesota Statutes 204B.11*).

#### FILING FEE AMOUNTS:

Governor, Lieutenant Governor, Secretary of State, Attorney General, State Auditor: \$300  
U.S. Senator: \$400  
U.S. Representative: \$300  
State Senator: \$100  
State Representative: \$100  
Judicial Officer: \$300  
County Office: \$50  
Soil and water conservation district supervisor: \$20  
Municipal office: \$2, \$5, \$20 or \$50 (check with the filing officer)  
School district office: \$2

#### WITHDRAWAL:

Candidates for state, federal, county, municipal, or school district offices may withdraw by filing Affidavits of Withdrawal with their filing officer by July 20, 2006 at 5:00 P.M. (*Minnesota Statutes 204B.12, 205.13, 205A.06*). The filing fee cannot be refunded (*Minnesota Statutes 204B.11*).

#### WEB SITE AVAILABILITY:

The secretary of state will provide a list of candidates filed with the office and a web site address of every candidate who files for federal or state office in Minnesota and lists the address (*FEC Advisory Opinion 1999-7*). The secretary of state also will create a PDF of the voluntary candidate statement of candidates who provide one on their Affidavits of Candidacy. The secretary of state web site is [www.sos.state.mn.us](http://www.sos.state.mn.us).

## Petitions

### Nominating Petitions (204B.07)

- A nominating petition must state:
  - The office sought;
  - The candidate's name and resident address;
  - The candidate's political party or political principle in not more than three words. No candidate for partisan office shall use the term "nonpartisan" as a political party or principle. No part of the name of a major political party may be used to designate the political party or principle of a candidate who files by nominating petition.
- No nominating petition shall contain the name of more than one candidate except a petition jointly nominating individuals for governor and lieutenant governor.
- **Nonpartisan office:** Nominating petitions usually not required except when there is a vacancy in nomination for the office (i.e. a candidate withdraws). A nominating petition may then be filed within one week after the vacancy in nomination occurs, but not later than four calendar days before the election (204B.13).
- **Presidential electors:** A nominating petition is required for presidential electors other than those nominated by major political parties. Major party candidates for presidential electors are certified under M.S. 208.03 (204B.07, Subd. 2)
- It is not necessary to certify the signatures on a nominating petition. The signer must list an address next to the signature.
- **Nominating petitions shall be signed only during the filing period (204B.08).**
- A signatory must be eligible to vote for the candidate who is nominated, and they may only sign once for each candidate.
- Number of signatures needed: for other offices, see 204B.08(3)
  - State office/U.S. Senator: 1 percent of individuals voting in the state at the last general election, or 2000, whichever is less.
  - Congressional office: 5 percent of individuals voting in the district at the last general election, or 1000, whichever is less.
  - County/Legislative office: 10 percent of individuals voting in the county at the last general election, or 500, whichever is less.
- Candidates who are absent from the state during the filing period may present petitions during the seven days immediately preceding the candidate's absence. **In this case, nominating petitions may be signed during the 14 days immediately preceding the date when the affidavit of candidacy is filed (204B.09).**
- The filing officer must deliver an acknowledgement (like a receipt) of the petition to the candidate on the day the petition is filed. The officer shall number the petitions in the order received, and they must be available for public inspection (204B.10).
- The filing officer must inspect the petitions to verify that there are a sufficient number of valid signatures (204B.10).
- The OSS must certify to county auditors the names of all candidates nominated by petition. This occurs at the same time the OSS certifies the candidates who are nominated at the primary (204B.10).
- If someone nominated by petition is ineligible to vote (because of a felony, or treason, or guardianship of

the person, or because of legal incompetence), the filing officer shall not certify the individual's petition (204B.10).

#### **Petition in place of filing fee (204B.11)**

- Instead of paying the filing fee, a candidate may present this petition at the same time the affidavit of candidacy is filed. The petition may be signed by any individual eligible to vote for the candidate.
- A nominating petition may also be used as a petition in place of a filing fee.
- A petition in place of filing fee may be signed at any time. A nominating petition that also is used for a petition in place of filing fee may only be signed during the filing period.
- Number of signatures needed on a petition in place of filing fee: for other offices, see 204B.11(2)
  - Statewide office/U.S. president/U.S. senator: 2000;
  - Congressional office: 1000;
  - County/Legislative/District judge office: 500.
- The filing official shall make sample forms for petitions in place of filing fees available upon request.

#### **M.R. 8205.1010 (Form of petitions)**

- Petition paper cannot be larger than 8-1/2 inches wide and 14 inches long. The signer's path and the signature lines must be on the same sheet of paper.
- Petition language cannot be smaller than 8-point type.
- Each page must have a short title describing the purpose of the petition.
- If the purpose of the petition is to put a question on the ballot, each petition may have a statement of 75 words or less summarizing the ballot question.
- Each page must have the signer's oath in 12-point type. If not specified by statute, the oath must be: **"I swear (or affirm) that I know the contents and purpose of this petition and that I signed the petition only once and of my own free will."**
- Each page must have this statement above the signature lines: **"All information must be filled in by person(s) signing the petition unless disability prevents the person(s) from doing so."**
- Each page also must have this statement: **"All information on this petition is subject to public inspection."**
- Each page cannot have more than 20 signature lines, which are consecutively numbered. Each line must have space for the date of signature, a signature, each signatory's year of birth, printed first, middle, and last name, and residence address, municipality, and county.

#### **M.R. 8205.1020 (Circulating petitions)**

- Petitioners may circulate photocopies of a sample petition page.

#### **M.R. 8205.1030 (Signing petitions)**

- The person signing the petition shall complete the signature date, name, year of birth, and residence address on the petition.
- A person unable to complete the petition may ask another for assistance.
- A person may sign a petition only once.

#### **M.R. 8205.1040**

- **Filing officer**
  - OSS is filing officer if petition is for an office to be voted on in more than one county.
- **Filing procedures**
  - Petitioner must file entire petition to the filing officer, by mail, messenger, or in person.
  - Petition is effectively filed upon receipt by filing officer.
  - Petition pages may only be altered by the filing officer for verification purposes.
- **Receipt**
  - Filing officer must provide a receipt which notes the type of petition filed, the name, address, and telephone number of the person submitting the petition, the date when the petition is filed, and total number of pages in the petition.

**M.R. 8205.1050 (Verifying petitions)**

- The filing officer must make sure the petition complies with the form requirements and must inspect it to determine if the required number of eligible signatories has signed it.
- If the required number of eligible signatories has not signed the petition, the filing officer must notify the petitioner of this fact and must add the number of additional signatures needed.
- If the petition satisfies the form requirements and has been signed by the required number of qualified signatories during the applicable time period, the filing officer shall notify the petitioner that the petition is sufficient.
- The filing officer shall complete the verification of a petition as soon as practicable but no later than ten working days after the day on which the petition was filed.